

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CRAIG TERRY,

Plaintiff,

- against -

MASTERPIECE ADVERTISING DESIGN

Defendant.

Docket No. 1:17-cv-8240

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Craig Terry (“Terry” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Masterpiece Advertising Design, (“Masterpiece” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyright photograph of the Levoy Theatre owned and registered by Terry, a professional photographer. Accordingly, Terry seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Terry is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 5114 Landis Avenue, Vineland, New Jersey 08360.

6. Upon information and belief, Masterpiece is a company with a place of business at 3101 Boardwalk, Suite 13, Atlantic City, New Jersey 08401. At all times material hereto, Masterpiece has created an advertising for Cape Bank (the “Advertisement”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Terry photographed the Levoy Theatre (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Terry is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph has a pending United States Copyright Office application number of 1-5937086521.

B. Defendant’s Infringing Activities

10. Masterpiece created an Advertisement for Cape Bank. The Advertisement prominently featured the Photograph. A true and correct copy of the Advertisement is attached hereto as Exhibit B.

11. Masterpiece did not license the Photograph from Plaintiff for its Advertisement, nor did Masterpiece have Plaintiff’s permission or consent to publish the Photograph on its Advertisement.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST MASTERPIECE)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Masterpiece infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Advertisement. Masterpiece is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Masterpiece have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Masterpiece be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;

2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
October 26, 2017

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